Amendments to the Drawings

FIGURE 1 is currently amended to add numerical identifiers to "rapid event generator 17" and "virtual event database 11." The amendments do not add new matter to the Specification or Drawings. The amendments are made so that FIGURE 1 corresponds more accurately to the Specification text.

Remarks/Arguments

In response to the Office Action mailed February 24, 2005, Applicants respectfully request that the Examiner reconsider the objections to the Specification and the rejections of the remaining claims.

Specification Formatting

The Examiner states, "[t]he lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor error." *See* Office Action mailed 02/24/2005 ¶ 2. In response, Applicants have checked the Specification and corrected grammatical and typographical mistakes without adding any new matter. Replacement paragraphs begin on page 10 of this paper.

The Examiner states, [t]he spacing of the lines of the specification is such to make reading and entry of amendments difficult." *See* Office Action mailed 02/24/2005, ¶ 1. Further, the Examiner requires "New application papers with lines double spaced on good quality paper." *See id.* The Code of Federal Regulations approves the use of 1 ½ spaced text in the Specification. *See* 37 C.F.R. § 1.52 (b) (stating the lines "must be 1 ½ or double spaced.") The Specification as originally filed is 1 ½ spaced. Therefore, the Specification meets the requirements of the Code of Federal Regulations. However, in accordance with the Examiner's requirement, Applicants currently submit a double-spaced Specification.

Claim Objections

Claim 7 stands objected to because the word "more" was inadvertently omitted from the phrase "one or more." *See* Office Action mailed 02/24/2004 ¶ 1, p. 2. In response, Applicants have amended claim 7 to correct this typographical error.

Rejections Under 35 U.S.C. § 102(b)

Claims 1-5, 7, 10-17 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Patent 6,463,460 (hereinafter "*Simonoff*"). Applicants respectfully traverse these rejections.

A claim is anticipated only if every element as set forth in the claim is found in a single prior art reference. MPEP § 2131. An anticipating reference must describe the patented subject matter with sufficient clarity and detail to establish that the subject matter existed and that its existence was recognized by persons of ordinary skill in the field of the invention. *ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 545 (Fed. Cir. 1998). Further, there must be no difference between the claimed invention and the reference disclosure, as viewed by a person of ordinary skill in the field of the invention. *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 927 F.2d 1565, 1576 (Fed. Cir. 1991).

An anticipation rejection under 35 U.S.C. §102(b) requires identity of invention; each and every feature of the claim must be identified by the Examiner, either explicitly or inherently, in a single prior art reference. Further, to establish inherency, extrinsic evidence must make clear that the missing descriptive matter is necessarily present in the device or system described in the reference, and that it would be so recognized by persons of ordinary skill in the art. *In re Robertson*, 169 F.3d 743, 49 USPQ2d 1949 (Fed. Cir. 1999). Inherency may not established by probabilities or possibilities; the mere fact that a certain thing may result from a given set of circumstances is not sufficient to establish inherency. *Scaltech, Inc. v. Retech/Tetra L.L.C.*, 156 F.3d 1193, 51 USPQ.2d 1055 (Fed. Cir. 1999). The Examiner has not met this burden as to the claims of the present application.

Claim 1 recites:

> 1. (Original) A system for presenting a virtual event through a network interfaced with the Internet, the system comprising:
> an ASP administration module having authority to grant plural organizations access to the network;
> an organization administration module associated with each organization, the organization administration module having authority to create plural virtual events;
> an event champion module associated with each virtual event and operable to establish a virtual event architecture that accepts content for the virtual event from contributors; and
> a contributor module interfaced with the network and operable to upload content from plural predetermined contributors to a virtual event based upon authority granted to the contributor from the event champion module.

Simonoff does not disclose every element of claim 1. The Examiner cites to *Simonoff's* "White Board" as disclosing claim 1's "an ASP administration module having authority to grant plural organizations access to the network." *See* Office Action mailed 02/24/2005, ¶ 3(a), p. 3. (citing to *Simonoff* col. 8, lines 26-44). To the extent *Simonoff's* "White Board server" discloses an "ASP administration module," *Simonoff* does not anticipate claim 1 because *Simonoff* does not teach or suggest the White Board server has authority to create plural virtual events to the network. The cited portion of *Simonoff* also discusses a "system administrator" that can "kill" White Board clients. *Simonoff*, col. 8, lines 39-41. Likewise, the cited portion of *Simonoff* does not teach or suggest the "system administrator" is an ASP administration module having authority to grant organizations access to the network.

Next, the Examiner cites to *Simonoff's* "White Board server" or "White Board client" as disclosing claim 1's "an organization administration module associated with each organization, the organization administration module having authority to create plural virtual events." *See* Office Action mailed 02/24/2005, p. 3 ¶ 3(b) (citing col. 25, lines 3-13). The cited portion of *Simonoff* does not teach or suggest that either the White Board server or client has "authority to create plural virtual events." Further, the Examiner has not established a *prima facie* case by specifying which element in *Simonoff* corresponds to an organization administration module.

As disclosing claim 1's "an event champion module associated with each virtual event and operable to establish a virtual event architecture that accepts content from the virtual event from contributors" the Examiner cites a portion in *Simonoff* that discloses several standard drop down menus including a "File" drop down menu with commands for uploading and downloading files to the White Board server from the White Board client. *See* Office Action mailed 02/24/2005 p. 3, ¶ 3(c) (citing col. 9, lines 65-67 & col. 10, lines 1-11). *Simonoff's* disclosure of the White Board client presenting a "File" drop down menu to upload files to the White Board server does not teach or suggest an event champion module that can grant authority to upload content from plural predetermined contributors. Further, the Examiner has not established a *prima facie* case by specifying which of *Simonoff's* elements correspond to the "event champion module." *Simonoff's* White Board server is not a such a module nor does the cited portion of *Simonoff* teach or suggest an event champion module within the White Board server. The White

Board server does not "establish a virtual event architecture that accepts content from contributors." What is more, the White Board client or File drop down menu only accepts content from one contributor, so neither teaches or suggests "a virtual event architecture that accepts content for the virtual event from <u>contributors</u>.

As disclosing claim 1's "a contributor module interfaced with the network and operable to upload content from plural predetermined contributors to a virtual event based upon authority granted to the contributor from the event champion module," the Examiner cites to *Simonoff's* teachings regarding a "Privilege" drop down menu. *See Simonoff*, col. 11, lines 25-43. Specifically, the Examiner cites to *Simonoff's* teachings that there is a "privilege" drop down menu that allows individual users to select a privilege for drawing objects placed on the White Board." *See* Office Action data 02/24/2005 p.3-4 (citing *Simonoff* col. 11, lines 24-43).

The Examiner has not established a *prima facie* case by specifying which element in *Simonoff* corresponds to "a contributor module." Further, the cited disclosures are distinguishable from the claimed subject matter. There is no element in *Simonoff* that corresponds to a "contributor module" that is operable to "upload content from <u>plural predetermined</u> contributors" (emphasis added). The "Upload" command may allow a singular user to upload any file, but the user is not "predetermined," nor is the user <u>plural</u>. *Simonoff*, col. 10, lines 45-48. The cited portion of *Simonoff* does not mention any <u>plural predetermined</u> contributors. Further, *Simonoff* does not disclose any uploading based upon "authority granted to the contributor from the event champion module." Instead, *Simonoff* apparently allows the user (singular) to upload <u>any</u> file to the shared filed upload areas." *See Simonoff*, col. 10, lines 46-47. Therefore, *Simonoff's* "Upload" command does not disclose or suggest a "contributor module" as recited in claim 1. If the Examiner is relying on *Simonoff's* "Privilege" menu as being a "contributor module," this does not disclose the claimed subject matter, either. *Simonoff's* privilege menu is meant to allow users with higher privileges to share information with each other while lower privileged users are logged into the same White Board session. *See Simonoff*, col. 11, lines 34-38. Such prevention of low-privileged individuals from downloading data is distinguishable from the claim 1's elements that "based upon authority granted to the contributor from the event champion module," the contributor module is "operable to upload content from

plural predetermined contributors."

In summary, the Examiner has not established a *prima facie* case that claim 1 is anticipated by pointing out with specificity which elements in *Simonoff* correspond to claim 1's elements. Further, *Simonoff* does not disclose or suggest every limitation of claim 1. Therefore, claim 1 is patentable over *Simonoff*.

Claim 2 depends from claim 1 and further recites, "an attendee module associated with each virtual event, the attendee module operable to authorize attendees to view virtual event content." The Examiner cites a portion of *Simonoff* that discloses a "view only mode" in which the White Board system makes a web page with no writeable objects available for selection to students. *See Simonoff*, col. 18, lines 25-31. *Simonoff* does not disclose or suggest the "view only mode" is operable to authorize attendees to view White Board content. Preventing students from writing to objects is distinguishable from claim 2's subject matter. Therefore, this citation does not disclose or suggest every element of claim 2. Also, claim 2 depends from claim 1 and, for the reasons discussed above with respect to claim 1, claim 2 is patentable over *Simonoff*.

Claim 3 depends from claim 2 and further recites for, "a member system module operable to establish membership for users to interface with the network." For the reasons discussed above with respect to claims 1-2, claim 3 is patentable over *Simonoff*.

Claim 4 depends from claim 3 and further recites, "the attendee module interfaces users with the member system module if the users are not members of the network." As disclosing these elements, the Examiner states, "it is inherent in the teachings of *Simonoff* that the attendee module interfaces users with the member system module if the users are not members of the network." *See* Office Action mailed 02/24/2005, p. 4, ¶ 6. With regard to claim 2, the Examiner cites to *Simonoff*'s "view only mode" as disclosing an "attendee module." *See id.* at p. 4, ¶ 4. The Examiner has not provided reference to, and Applicants have not found, any teaching or suggestion that *Simonoff*'s "view only mode" interfaces users with the login procedure for the White Board if the users are not members of the network. Rather, in the event a user's identity is not acceptable, the White Board client shuts down. *See Simonoff*, col. 15, lines 15-17. Therefore, in addition to the reasons stated above with respect to claims 1-3, claim 4 is allowable over *Simonoff*.

18

Claim 5 depends from claim 1 and further recites, "a rapid event generator associated with the event champion module, the rapid event generator operable to present an event champion with one or more templates that define the architecture of a virtual event." *Simonoff* does not teach or suggest any "event champion," therefore, *Simonoff* necessarily does not teach or suggest the elements of claim 5. Further, the Examiner has not established a *prima facie* case that claim 5 is anticipated. The Examiner cites to 73 lines of *Simonoff* without specifying which of *Simonoff*'s elements discloses the elements of claim 5. *See* Office Action mailed 02/24/2005, p. 4, ¶ 7.

Claim 5 is further distinguishable. With regard to claim 1, the Examiner cites to the White Board client's drop down menus as disclosing the "event champion module." With regard to claim 5, the 73 lines of *Simonoff* do not teach or suggest any "rapid event generator" associated with the drop down menus and operable to present an event champion with one or more templates that define the architecture of a virtual event. Further, the cited portions of *Simonoff* do not disclose or suggest any templates or architecture of a virtual event. Nor do the cited portions disclose or suggest a rapid event generator that presents an event champion with any templates. Instead, the cited portion teaches that each client computer transmits objects to the primary server and the primary server stores the objects. *See Simonoff*, col. 6, line 67-col. 7, line 3. Therefore, in addition to the reasons stated above with regard to claim 1, claim 5 is patentable over *Simonoff*.

Claim 7 is rejected as anticipated by *Simonoff*. Claim 7 recites:

> 7.   (Currently amended)   A method for presenting virtual events through a network interfaced with the Internet, the method comprising:
> authorizing plural organizations access to the network;
> each organization authorizing the creation of one or more virtual events through the network, each virtual event having an associated event champion;
> establishing a virtual event architecture for each virtual event by the associated event champion, the virtual event architecture identifying one or <u>more</u> content contributors; and
> uploading content by the content contributors from the Internet.

The Examiner has not established a *prima facie* case that *Simonoff* discloses every

limitation of claim 7. The Examiner improperly rejects claim 7 under the same rationale as claim 1; however, claim 7 recites limitations not present in claim 1. For example, claim 7 recites "each virtual event having an associated event champion." Further, claim 7 recites "establishing a virtual event architecture" "identifying one or more content contributors." The Examiner has not provided any citation in *Simonoff* that discloses these limitations. Further, *Simonoff* does not teach or suggest these limitations. Nowhere does *Simonoff* teach or suggest and event champion. Therefore, in addition to the reasons stated with regard to claim 1, claim 7 is patentable over *Simonoff*.

Claim 10 depends from claim 7 and has the added limitations, "establishing a virtual event architecture further comprises identifying one or more sponsors of the virtual event." The cited portion of *Simonoff* discloses that a list of logged-in users is displayed along with username, machine address, security privilege level, etc. *Simonoff*, col. 17, lines 3-37. Displaying users is distinguishable from "identifying one or more sponsors" (emphasis added). Therefore, in addition to the reasons discussed above with regard to claim 7, claim 10 is patentable over *Simonoff*.

Claim 11 recites the limitations of claim 7 with the added limitations, "establishing a virtual event architecture further comprises identifying one or more exhibitors of the virtual event." For the reasons discussed above with regard to claim 7, claim 10 is patentable over *Simonoff*.

Claim 12 recites the limitations of claim 7 with additional recitations for, "previewing by the event champion of content loaded to the virtual event" and "authorizing the previewed content by the event champion for presentation in the virtual event." The cited portion of *Simonoff* does not teach or suggest an event champion, therefore claim 13 is necessarily allowable over *Simonoff*. The Examiner cites to portions of text which disclose drop down menus; however, the cited text does not disclose or suggest any event champion previewing content loaded to the virtual event. No part of the cited text discloses authorizing the previewed content by any event champion. With regard to claim 1, the Examiner cited to the same portion of *Simonoff* in likening *Simonoff*'s drop down menus to the claimed "event champion module." However, the Examiner has not specified which of *Simonoff*'s elements corresponds to any

"event champion." Therefore, in addition to the reasons discussed above with respect to claim 7, claim 12 is patentable over *Simonoff.*

Claim 13 recites the limitations of claim 12 with added recitations, " the content comprises a video presentation." For the reasons discussed with respect to claim 7 and 12, claim 13 is patentable over *Simonoff.*

Claim 14 stands rejected as anticipated by *Simonoff.* Claim 14 recites:

> 14.   (Original)   A system for presenting a virtual event through a network interfaced with the Internet, the system comprising:
> a rapid event generator accessible by an event champion and operable to define an architecture of the virtual event based on authorizations of a network administrator for an organization to access the network and an organization administrator associated with the authorized organization for the event champion to create the virtual event.

The Examiner has not established a *prima facie* case that *Simonoff* discloses every limitation of claim 14. The Examiner cites to 73 lines of text without specifying which of *Simonoff's* elements correspond to an event champion, a rapid event generator, a network administrator, or an organization administrator. Further, the text cited by the Examiner does not disclose or suggest these elements of claim 14. Therefore, claim 14 is patentable over *Simonoff.*

Claim 15 depends from claim 14 and further recites, "a content contributor module associated with the network and operable to upload predetermined content authorized by the event champion." The text cited by the Examiner teaches that there is a "privilege" drop down menu that allows individual users to select a privilege for drawing objects placed on the White Board. *Simonoff* col. 11, lines 24-43. However, the Examiner has not specified which element in *Simonoff* corresponds to "a content contributor module." There is no element, including the drop down menus, in *Simonoff* that corresponds to a "content contributor module" that is operable to "upload predetermined content authorized by the event champion" (emphasis added). Further, the cited portion of *Simonoff* does not teach or suggest any predetermined content or event champion. Likewise, *Simonoff's* "Upload" command does not disclose a "contributor module." The "Upload" command may allow a user to upload any file, but the user is not

"predetermined." *Simonoff,* col. 10, lines 45-48. Therefore, in addition to the reasons state above with regard to claim 14, claim 15 is patentable over *Simonoff.*

Claim 16 depends from claim 14 with the additional recitations, "the organization administrator authorizes a virtual event by creating an event instance." The Examiner has not specified which elements in *Simonoff* correspond to "organization administrator" nor "event instance." Therefore, the Examiner has not established a *prima facie* case claim 16 is anticipated. Further, *Simonoff* does not disclose or suggest any organization administrator or event instance. Therefore, in addition to the reasons stated above with regard to claim 14, claim 16 is patentable over *Simonoff.*

Claim 17 depends from claim 16 with additional recitations, "wherein the rapid event generator comprises an object operable to accept the event instance created by the organization administrator and further operable to generate a virtual event object from the event instance and data provided by the event champion." The Examiner cites to 73 lines of *Simonoff* without specifying which of *Simonoff's* elements correspond to claim 16's elements. The Examiner does not specify which of *Simonoff's* elements correspond to an event champion, a rapid event generator, or an organization administrator. Therefore, the Examiner has not presented a *prima facie* case that claim 17 is anticipated. Further, the cited text does not disclose or suggest these elements. Therefore, in addition to the reasons stated above with regard to claim 14 and 16, claim 17 is patentable over *Simonoff.*

<u>Rejections Under 35 U.S.C. § 103</u>

Claims 6, 8, and 9 stand rejected as obvious over *Simonoff* in view of U.S. Patent 6,732,148 (hereinafter "*Estrada*"). These rejections are traversed.

The basic test for nonobvious subject matter is whether the differences between the subject matter and the prior art are such that the claimed subject matter as a whole would not have been obvious to a person having ordinary skill in the art to which the subject matter pertains. The United States Supreme Court in *Graham v. John Deere & Co.,* 383 U.S. 1 (1966) set forth the factual inquiries which must be considered in applying the statutory test: (1) a determination of the scope and contents of the prior art; (2) ascertaining the differences between

the prior art and the claims at issue; and (3) resolving the level of ordinary skill in the pertinent art.

Determining Scope and Content of Prior Art

In determining the scope and content of the prior art, the Examiner must first consider the nature of the problem on which the inventor was working. Once this has been established, the Examiner must select, for purposes of comparing and contrasting with the claims at issue, prior art references which are reasonably pertinent to that problem (the inventor's field of endeavor). *See Heidelberger Druckmaschinen AG v. Hantscho Commercial Products, Inc.,* 30 U.S.P.Q.2d 1377, 1379 (Fed. Cir. 1994). In selecting references, hindsight must be avoided at all costs.

The subject matter of the present invention relates to methods and systems for the creation, presentation, and administration of virtual events over the Internet, for example. *See* Specification, page 1. Claim 6 relates to a system for presenting a virtual event through a network interfaced with the Internet. The system comprises an ASP administration module having authority to grant plural organizations access to the network. The system further comprises an organization administration module associated with each organization. The organization administration module has authority to create plural virtual events. The system further comprises an event champion module associated with each virtual event and operable to establish a virtual event architecture that accepts content for the virtual event from contributors. The system further comprises a contributor module interfaced with the network and operable to upload content from plural predetermined contributors to a virtual event based upon authority granted to the contributor from the event champion module. The system further comprises a rapid event generator associated with the event champion module. The rapid event generator is operable to present an event champion with one or more templates that define the architecture of a virtual event. The rapid event generator defines the number of attendees, the type of content and the duration of the virtual event.

Claim 8 relates to a method for presenting virtual events through a network interfaced with the Internet. The method includes the step authorizing plural organizations access to the network. Each organization authorizes the creation of one or more virtual events through the

network. Each virtual event has an associated event champion. The step further includes establishing a virtual event architecture for each virtual event by the associated event champion. The virtual event architecture identifying one or content contributors. The step further includes uploading content by the content contributors from the Internet, defining a predetermined time period for presentation of the virtual event through the Internet, and authorizing predetermined attendees to access the virtual event during the predetermined time period. Claim 9 further includes the step establishing membership to the network for an attendee before authorizing access by that attendee to the virtual event.

Simonoff relates to an electronic white board system that permits a plurality of users to collaborate with one another without respect for the users' hardware platforms. *See Simonoff* ABSTRACT. One of the principal objects of *Simonoff* is to provide a Universal Distributed Display Capability (UDDC) for operating military applications any off-the-shelf based systems supporting JAVA enabled browsers. *See id.* at, col. 8, lines 14-19. *Simonoff* discloses a Common Collaboration Environment ("CCE," also referred to as "White Board") that is a JAVA applet. *See id.* at col. 8, lines 25-26. *Simonoff's* disclosed system allows multiple users to communicate over a virtual white board and exchange information. *See id.* at col. 6. The exchange of information can be limited according to privileges. *See id.* at col. 11, lines 25-43.

Estrada discloses a system that enables users to accelerate productivity by easily creating and maintaining collaborative spaces on a network. *Estrada*, col. 4, lines 60-64. Through the submission of web forms from a web browser, the system creates and manages customizable and secure web collaboration spaces. *See id.* at col. 5, lines 50-55. A collaboration space data model is provided in which a place includes a plurality of rooms. *See id.* lines 56-58. Rooms have a room type that control the appearance of content of the room. *See id.* at lines 57-65. For each said room, there is provided a members object for identifying members authorized to access the room. *See id.*

Differences Between Prior Art and Claims

The second step within the test described in *Graham* is to ascertain the differences between the cited prior art and the claims at issue. A *prima facie* showing of obviousness

requires the Examiner to establish that the prior art references teach or suggest, either alone or in combination, all of the limitations of the claimed invention. The showings must be clear and particular. *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999).

Estrada is fundamentally different from the claimed subject matter. *Estrada* teaches that members of a team may use a browser interface and are able to set up a folder (room) for project elements. *Estrada*, col. 2, lines 23-30. The folders (rooms) receive reports from team members and have them routed to appropriate team members for review, resolution, and approval. *Id.*

Estrada taken alone or in combination with *Simonoff* does not recite all the elements of claim 6. Contrary to the Examiner's assertions, the portions of *Estrada* cited by the Examiner do not disclose any object "defining" the "duration of the virtual event." *Estrada*, col. 5, lines 51-67 thru col. 6, lines 1-9. The cited portions *Estrada* make no mention of the duration of a folder (room). *See id.* Further, there is no disclosure of any object defining the number of members of a group. *See id.* Further, *Estrada's* "members object" is "for identifying members authorized to access" a room, but this "members object" is not disclosed as "defining the number of members." Still further, the cited portion of *Estrada* does not disclose that the "members object" is "defining" "the content type" of any virtual event. The room type is disclosed as controlling "the appearance of content." *Estrada*, col. 5, lines 60-61. Controlling the appearance of content is patently distinguishable from controlling "content type."

Estrada taken alone or in combination with *Simonoff* does not recite all the elements of claim 8. There is no disclosure in *Estrada* corresponding to claim 8's "defining a predetermined time period for presentation of the virtual event through the Internet." As disclosing these elements, the Examiner cites to a portion of *Estrada* that discusses "the length of time associated with this object when viewed in the calendar." *See* Office Action mailed 02/24/2005 p. 8, (citing *Estrada* col. 32, lines 21-32). This citation does not disclose "defining a predetermined time period" for presentation of a room or object. Further, no combination of the references teaches "authorizing predetermined attendees to access the virtual event during the predetermined time period." The relied upon portion of *Simonoff* discusses a "view only mode" to facilitate a teacher/student relationship. *See Simonoff*, col. 8, lines 27-29. In the cited reference, access to any virtual event is not authorized during any predetermined time period, nor is it authorized to

any predetermined attendees. *See Simonoff,* col. 18, lines 23-31 and *Estrada,* col. 32, lines 21-32. Therefore, no combination of the references teaches or suggests every element of claim 8. Therefore, in addition to the reasons stated above with regard to claim 7, claim 8 is patentable over *Estrada* and *Simonoff,* taken alone or in combination. Claim 9 depends from claim 8 and, for the reasons discussed with regard to claim 8, claim 9 is patentable over *Estrada* and *Simonoff,* taken alone or in combination.

No Motivation to Combine

In order to establish a *prima facie* case of obviousness, it is necessary for the Examiner to present evidence, preferably in the form of some teaching, suggestion, incentive or inference in the applied prior art, or in the form of generally available knowledge that one having ordinary skill in the art would have been led to modify or combine the relevant teachings of the applied references in the proposed manner to arrive at the claimed invention. *Ex parte Levengood,* 28 U.S.P.Q.2d 1300, 1301 (Bd. Pat. App. & Int. 1993); *Ashland Oil, Inc. v. Delta Resins and Refractories, Inc.,* 776 F.2d 281 (Fed. Cir. 1985). The motivation or suggestion to modify or combine references must come from one of three possible sources: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. *In re Rouffet,* 47 U.S.P.Q. 2d 1453, 1458 (Fed. Cir. 1998). The showings must be clear and particular. *In re Dembiczk,* 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). Broad conclusory statements regarding the teachings of multiple references, standing alone, are not evidence. *Id.*

The legal conclusion of obviousness must have a correct factual basis. *See Graham v. John Deere & Co.,* 383 U.S. 1 (1966); *In re Rouffet,* 47 USPQ2d 1453, 1455 (Fed. Cir. 1998). Where the legal conclusion is not supported by facts, it cannot stand. *Id.* A rejection based on § 103 clearly must rest on a factual basis, and these facts must be interpreted without hindsight reconstruction of the invention from the prior art. *In re Dembiczak,* 50 USPQ2d 1614, 1617 (Fed. Cir. 1999). The patentability of an invention is not to be viewed with hindsight or "viewed after the event." *Goodyear Company v. Ray O Vac Company,* 321 U.S. 275, 279 (1944). The proper inquiry is whether modifying or bringing them together was obvious and not, whether one of ordinary skill, having the invention before him, would find it obvious through hindsight to

construct the invention. Accordingly, an Examiner cannot establish obviousness by locating references which describe various aspects of the patent Applicant's invention without also providing evidence of the motivating force which would compel one skilled in the art to do what the patent applicant has done.

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. *See In re Geiger*, 2 USPQ 2d 1276, 1278(Fed. Cir. 1987). *Ex parte Skinner*, 2 USPQ 2d 1788, 1790 (B.P.A.I. 1987). When the incentive to combine the teachings of the references is not readily apparent, it is the duty of the Examiner to explain why combination of the reference teachings is proper. Absent such reasons or incentives, the teachings of the references are not combinable. *Ex parte Skinner*, 2 USPQ 2d 1788, 1790 (B.P.A.I. 1987). It is impermissible to use the claimed invention as an instruction manual or "template" to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Fritch*, 23 USPQ 2d 1780, 1784 (Fed. Cir. 1992). The Examiner cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. *In re Fritch*, 23 USPQ 2d 1780, 1784 (Fed. Cir. 1992). It is insufficient to establish obviousness that the separate elements of the invention existed in the prior art, absent some teaching or suggestion, in the prior art, to combine the elements. *Arkie Lures, Inc. v. Gene Larew Tackle, Inc.*, 43 USPQ 2d 1294 (Fed. Cir. 1997).

The Examiner has not provided sufficient motivation to combine or modify *Simonoff* and *Estrada* to reach the claimed subject matter. As motivation to combine *Simonoff* and *Estrada* regarding claim 6, the Examiner states it would have been apparent to modify the teachings of *Simonoff* "to show the rapid event generator defining the number attendees, the type of content, and the duration of the virtual event." Further, "This would have given the attendees more insight to how many other attendees are interested in the same type content, what exactly the content is, and how long an event will take place. *See* Office Action mailed 02/24/2005 p. 7. Also, the Examiner states, "accessing events during predetermined time periods were well known in the art." Each of the Examiner's motivations to combine represent the Examiner's subjective opinions and are not evidence to combine or modify any combination of the two

references. The Examiner has not provided sufficient motivation as to why one of ordinary skill in the art would combine *Simonoff's* disclosures regarding electronic white boards that allow users with various operating systems and privileges to communicate, with *Estrada's* disclosures for setting up folders (rooms) to allow users to communicate and store information, to reach claim 6's subject matter relating to a system for presenting a virtual event including a rapid event generator that defines the number of attendees, the type of content, and the duration of the virtual event. Therefore, the Examiner has not established a *prima facie* case that claim 6 is obvious over *Simonoff* and *Estrada*, taken alone or in combination.

As motivation to combine *Simonoff* and *Estrada* to reach the subject matter of claim 8, the Examiner states "it would have been obvious" "to modify the teachings of *Simonoff* to show accessing the event during a predetermined time period." "This would have given multiple attendees the chance to view the event at the specified predetermined time period, and thus would have given all attendees the same opportunity to perform a function in response to the event." *See* Office Action mailed 02/24/2005, p. 8. These are the Examiner's subjective opinions and do not represent evidence of a motivation to combine. The Examiner has not established a *prima facie* case that claim 8 is obvious over *Simonoff* and *Estrada*, taken alone or in combination.

In summary, claims 6, 8, and 9 are patentable over *Simonoff* or *Estrada*, taken alone or in combination.
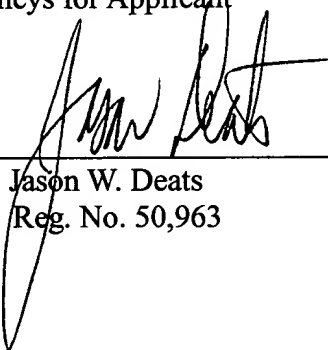
Conclusion

The Specification and FIGURE 1 are currently amended. No new matter has been added. Claim 7 is currently amended. Applicants respectfully submit that the claims are patentably distinct over the cited art.

If the Examiner has any questions or comments concerning this paper or the present application in general, the Examiner is invited to call the undersigned at 512-370-2804.

Respectfully submitted,
WINSTEAD SECHREST & MINICK P.C.
Attorneys for Applicant

By:_____

Jason W. Deats
Reg. No. 50,963

P. O. Box 50784
Dallas, Texas 75201
Fax: 214.745.5390

29